

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, MAY 8, 2006
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:02 p.m. Council President Peters recessed the meeting at 3:13 p.m. into Closed Session. Council President Peters reconvened the meeting at 3:30 p.m. with Council President Pro Tem Young not present. Council President Peters recessed the meeting at 3:44 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:51 p.m. with all Council Members present. The meeting was adjourned by Council President Pro Tem Young at 5:35 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present
- Clerk-Maland (gs)

FILE LOCATION:

MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-not present

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Pastor Phoebe Dial of People's Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Madaffer.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Labor Negotiator, pursuant to Government Code section 54957.6:

CS-1 Agency negotiator: Scott Chadwick, J. Rod Betts, Julie Dubick,
Lisa Briggs, Jay Goldstone, Rich Snapper,
Val VanDeweghe, Jessica Falk Michelli,
William Gersten, and Regina Silva

Employee organizations: Local 145 International Association of Firefighters
AFL-CIO, San Diego Police Officers Association,
Deputy City Attorney Association

REFERRED TO CLOSED SESSION OF TUESDAY, MAY 9, 2006

DCA assigned: J. Falk Michelli

Discuss with Council the labor contract negotiations with the Police Officers Association, International Association of Firefighters Local 145, and the Deputy City Attorney Association regarding new labor agreements and deliberations, if necessary, following impasse procedures.

CLOSED SESSION COMMENT 1:

Hud Collins commented on calling an immediate summit with the unions.

CLOSED SESSION COMMENT 2:

Ron Saathoff commented on the agreement that was reached between firefighters and the mayor's team.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:05 p.m. – 3:09 p.m.)

Council President Peters closed the hearing.

**Conference with Legal Counsel-existing litigation, pursuant to California Government
Code section 54956.9(a):**

**CS-2 *SDCERS v. San Diego City Attorney Michael J. Aguirre, et al. more*
San Diego Superior Court Case No. GIC841845**

REFERRED TO CLOSED SESSION OF TUESDAY, MAY 9, 2006

CA: M. Aguirre

This case was originally filed by SDCERS for declaratory relief regarding whether the City Attorney's office may serve as general counsel for SDCERS. The City Attorney cross-complained against SDCERS for declaratory relief regarding the legality of pension benefits granted under MP I and MP II. In closed session the City Council may take action on the waiver of attorney client privilege on closed session transcripts related to this case.

CLOSED SESSION COMMENT 1:

Hud Collins commented on providing the public with brief reports on closed session items.

CLOSED SESSION COMMENT 2:

Daniel Coffey commented on the unlawful conduct by City Attorney Michael Aguirre in filing a cross-complaint.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:05 p.m. – 3:12 p.m.)

Council President Peters closed the hearing.



ITEM-150: FY 2007 City of San Diego Annual Action Plan.

(See San Diego Housing Commission Report No. LUH06-001.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2006-909) ADOPTED AS RESOLUTION R-301421

Approving the City's federally required Fiscal Year 2007 Annual Action Plan, and authorizing the Chief Executive Officer of the Housing Commission to submit the Plan, on behalf of the City, to the U.S. Department of Housing and Urban Development for its review and approval, and upon its acceptance, to execute a grant agreement for Federal Fiscal Year 2006 CDBG, Emergency Shelter Grant (ESG), Housing Opportunities for People with AIDS (HOPWA), Home Investment Partnership (HOME), and American Dream Down-payment Initiative (ADDI) funds;

Declaring that this activity is the application for grant funds and would not be considered a "Project" and is therefore not subject to CEQA per CEQA Guidelines Section 15060(c)(2).

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 3/29/2006, LU&H voted 4 to 0 to approve the Five-Year Action Plan and forward to the City Council. (Councilmembers Faulconer, Atkins, Madaffer, and Hueso voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:35 p.m. – 5:35 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-200: Tobacco Settlement Revenue Securitization.

(See Independent Budget Analyst Report IBA-06-15; Report to the City Council No. 06-033; and memorandum from Jay M. Goldstone dated 4/19/2006.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 4/24/2006, Item 200, Subitem A. (Council voted 6-1. Councilmember Frye voted nay. Council President Peters ineligible):

(O-2006-120) ADOPTED AS ORDINANCE O-19490 (New Series)

Approving the form and authorizing the execution and delivery of the Sale Agreement; approving and acknowledging the form of the Declaration and Agreement of Trust, the Indenture, the Purchase Contract, the continuing Disclosure Undertaking and the Preliminary Offering Circular; approving a Final Offering Circular; and authorizing, acknowledging and approving certain other documents and actions in connection therewith.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:57 p.m. – 4:31 p.m.)

MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-201: Establishing a Schedule of Compensation for Officers and Employees of the City of San Diego for the Fiscal Year 2006-2007.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 4/17/2006, Item 201, Subitem A. (Council voted 8-0):

(O-2006-111) ADOPTED AS ORDINANCE O-19491 (New Series)

Establishing a Schedule of Compensation for Officers and Employees of the City of San Diego for the Fiscal Year 2006-2007.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:41 p.m. – 3:51 p.m.)

MOTION BY YOUNG TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-202: Inviting Bids and Property Acquisition for the Torrey Del Mar Neighborhood Park Project.

(Torrey Highlands Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2006-828) ADOPTED AS RESOLUTION R-301422

Approving the plans and specification for the construction of Torrey Del Mar Neighborhood Park (Project), on Work Order No. 295460;

Authorizing the Mayor, after advertising for bids in accordance with law, to execute a construction contract with the lowest responsible and reliable bidder, and authorizing the City Auditor and Comptroller, upon advice from the administering department, to return excess budgeted funds, if any, to the appropriate reserves;

Amending the Fiscal Year 2006 Torrey Highlands Public Facilities Financing Plan, CIP-29-546.0 for Torrey Del Mar Neighborhood Park, by increasing the appropriation amount by \$1,394,658;

Amending the Fiscal Year 2006 Capital Improvements Program Budget for CIP-29-546.0, Torrey Del Mar Neighborhood Park, by increasing the budget amount by \$1,394,658 from Fund No. 79015 Torrey Highlands Facilities Benefits Assessment;

Authorizing the appropriation and expenditure of an amount not to exceed \$1,394,658 from CIP-29-546.0, Torrey Del Mar Neighborhood Park, Fund No. 79015 Torrey Highlands Facilities Benefit Assessment, solely and exclusively for the purpose of providing funds for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$258,784 from CIP-29-427.0, Black Mountain Ranch Community Park – Acquisition and Development to CIP-29-546.0, Torrey Del Mar Neighborhood Park within Fund No. 39069, Torrey Highlands Planned Urbanizing Development Impact Fees;

Authorizing the appropriation and expenditure of an amount not to exceed \$258,784 from CIP-29-546.0, Torrey Del Mar Neighborhood Park, Fund No. 39069 Torrey Highlands Planned Urbanizing Development Impact Fees, solely and exclusively for the purpose of providing funds for the Torrey Del Mar Neighborhood Park, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the acquisition of a 1.4+/- acre parcel, being a portion of Parcel 2 of Parcel Map No. 147568, as required for the completion of Torrey Del Mar Neighborhood Park;

Authorizing the expenditure of an amount not to exceed \$560,000 from CIP-29-546.0, Torrey Del Mar Neighborhood Park, Fund No. 79015 for the acquisition of property and related closing costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$2,070,558 from CIP-29-546.0, Torrey Del Mar Neighborhood Park, Fund No. 39069, (\$528,768 from the Torrey Highlands Planned Urbanizing Development Impact Fees, and \$1,541,774 from Fund No. 79015, Torrey Highlands Facilities Benefit Assessments), for the construction of Torrey Del Mar Neighborhood Park and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer. (BID-K062849C)

Subitem-B: (R-2006-832) ADOPTED AS RESOLUTION R-301423

Certifying that Mitigated Negative Declaration No. 54402 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of Torrey Del Mar Neighborhood Park;

Finding that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, approving the Mitigated Negative Declaration;

Adopting the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, pursuant to California Public Resources Code Section 21081.6;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

STAFF SUPPORTING INFORMATION:

Torrey Highlands Neighborhood Park North is located between State Route 56 and Carmel Mountain Road at the southeast corner of the intersection of Kerry Lane and Torrey Del Mar Road in the community of Torrey Highlands. The park is bounded by single family homes on the north and west sides and by open space habitat on the south and east sides. This five acre park will provide for the needs of the projected population in the northern portion of the Torrey Highlands community. The proposed park improvements include passive lawn areas, picnic areas, basketball court, concrete walkways, security lighting, fencing, monument sign, landscaping, irrigation systems, and other park amenities desired by the community. The entire park site has been rough graded as part of the Torrey Del Mar Development. The remaining 1.4 acres required for the park, is to be acquired for \$550,000 as determined by an appraisal reviewed and approved by the Real Estate Assets Department.

The alternative to not approving the requested action will result in no project. Consequently, the park needs for the Torrey Highlands community will not be fulfilled.

FISCAL CONSIDERATIONS:

This project is being funded from Torrey Highlands Planned Urbanizing Development Impact Fees (DIF), \$2,608,924; and from Torrey Highlands Facilities Benefits Assessment (FBA), \$2,384,518. The total project cost is estimated at \$4,993,442 of which \$3,340,000 is already appropriated in the project, CIP-29-546.0, Torrey Del Mar Neighborhood Park, Torrey Highlands Planned Urbanizing DIF Fund No. 39069 (\$2,350,140) and Torrey Highlands FBA Fund No. 79015 (\$989,860). The remaining funds, \$1,653,442, are available in CIP-29-427.0, Black Mountain Ranch Community Park - Acquisition and Development, Torrey Highlands Planned Urbanizing DIF Fund No. 39069 (\$258,784); and Torrey Highlands FBA, Fund No. 79015 (\$1,394,658).

Annual operating expense for this park is estimated at \$162,600. Funding for this purpose will come from Park and Recreation Department General Fund. The park is expected to come on line in April 2007, therefore, a quarter of the yearly operating costs will be included in the Fiscal Year 2007 budget.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On March 18, 2002, by consent motion, Council adopted Resolution R-296157, by unanimous vote, authorizing the expenditure of \$1,740,000 from Torrey Highlands DIF, Fund No. 39069 for the purpose of acquiring 3.68 acres of park property.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

1. Project design was reviewed and approved by the following community groups:
2. Los Peñasquitos Recreation Council, May 27, 2004
3. Community I Area Committee, September 1, 2004
4. Design Review Committee, September 8, 2004
5. Park and Recreation Board, September 16, 2004

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

1. David Goodell, Property Owner
2. Park Users

Penera/Martinez

Aud. Cert. 2600731.

Staff: Gus Button - (619) 533-3025
Shannon M. Thomas - Deputy City Attorney

FILE LOCATION: W. O. 295460

COUNCIL ACTION: (Time duration: 2:02 p.m. – 2:07 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-203: In the Matter of Whether to Provide for an Attorney for Affected City Employees and Former City Employees in San Diego City Employees Retirement System (SDCERS) v. City of San Diego and Michael Aguirre (GIC841845).

(See memorandums from Councilmember Peters dated 4/14/2006 and 3/28/2006; letter from Councilmember Peters dated 4/10/2006; letter from Attorney Aguirre dated 4/5/2006; and letters from Steven M. Strauss dated 4/10/2006 and 3/27/2006.)

(Continued from the meetings of April 18, 2006, Item 330, and April 25, 2006, Item S500, last continued at the request of City Council, for further review.)

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Directing the City Attorney to draft a resolution which would:

RETURNED TO COUNCIL PRESIDENT PETERS' OFFICE

- a. Approve retention of outside counsel to represent former members of the City Council in SDCERS v. City of San Diego and Aguirre (GIC841845) in light of SDCERS' Cross Complaint to the City's 4th Amended Complaint as permitted under California Government Code Section 995 et seq.;
- b. Authorize expenditure of up to \$250,000 subject to Auditor's Certificate for such representation.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:05 p.m.)



[ITEM-204:](#) FY 2007 Community Development Block Grant Program.

(See Report to the City Council No. 06-047.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-910) ADOPTED AS RESOLUTION R-301424

Authorizing the City Auditor and Comptroller to accept CDBG funds in the amount of \$15,506,862 from the U.S. Department of Housing and Urban Development for the City's FY 2007 CDBG Program;

Approving the funding allocations and recommendations for the City's FY 2007 CDBG Program, set forth in Report to the City Council No. 06-047, contingent upon certification of funds availability by the City Auditor and Comptroller, and that the Core City Priorities and CDBG-Funded Projects approved for funding be incorporated into the City's FY 2007 CDBG Action Plan;

Authorizing the Mayor, or his designee, to negotiate and execute agreements with those CDBG-Funded Projects approved for funding, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the Executive Director of the San Diego Housing Commission to negotiate and execute agreements with those CDBG-Funded Projects approved for funding whose allocations the Mayor, or his designee, asks the San Diego Housing Commission to administer, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to appropriate and expend the CDBG funds for the Core City Priorities and CDBG-Funded Projects approved for funding, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to reprogram funding from prior year CDBG-funded projects to FY 2007 projects approved for funding, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the Mayor, or his designee, to suspend the initiation of new HUD Section 108 Loans during FY 2007 that rely on CDBG and/or General Funds as a repayment source.

STAFF SUPPORTING INFORMATION:

The Housing and Community Development Act of 1974 established the Community Development Block Grant Program (Program). The City of San Diego has participated in the Program since its inception. Community Services staff members are responsible for grant compliance and the overall administration of the City's CDBG Program.

The City's CDBG entitlement grant amount for FY 2007 is \$15,506,862, which is a \$1,776,120 (10.3%) reduction from the current fiscal year. The City opened a CDBG application process on December 12, 2005, which remained open until January 31, 2006. A total of 163 applications were received by the City, for an amount requested totaling approximately \$26.7 million.

On March 30, 2006, a memorandum from Ronne Froman, Chief Operating Officer, dated March 29, 2006, along with the 163 CDBG applications, were provided to the City Council. The memorandum includes proposed CDBG allocations for the following Core City Priorities:

- CDBG Administration	\$ 1,360,000 (Administrative)
- CIP Project Management	\$ 350,000 (Administrative)
- Section 108 Loan Payments	\$ 3,275,256 (prior City Council action)
- Social Services (15%)	\$ 2,326,029 (Council Policy 700-02)
- Housing Commission	\$ 1,277,478 (Council Policy 700-02)
- ADA Barrier Removal Program	\$ 1,131,749 (past practice)
- ADA Transition Plan	\$ 473,000 (past practice)
Total	\$10,193,512

After netting out the above Core City Priorities, there is \$5,313,350 of discretionary CDBG funds available from the FY2007 entitlement grant to fund eligible projects.

FISCAL CONSIDERATIONS:

There is no impact to the General Fund from this action. Funding for each program is available from the CDBG Program.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The application for federal entitlement grants (which includes the City's CDBG entitlement grant) is referred to as the Consolidated Plan. The Consolidated Planning process includes a community input process, during which staff presented the Plan and requested feedback from each community planning group representing low and moderate income communities. Further, the process was brought before the Land Use and Housing Committee and the San Diego Housing Commission for discussion. Moreover, the CDBG application process was noticed in the San Diego Union Tribune newspaper, and notices were mailed to the City's CDBG mailing database.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Residents of low and moderate income communities; community-based organizations; community planning groups; and other community development organizations.

Linares/Martinez

Staff: Ernie Linares - (619) 236-6719
Michael D. Neumeyer - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:38 p.m. – 2:43 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-205: FY 2007 Social Services Program.

(See Report to the City Council No. 06-048.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-911) ADOPTED AS RESOLUTION R-301425

Authorizing the City Auditor and Comptroller to accept the funding appropriations from the City's CDBG entitlement grant, Emergency Shelter Grant, and the San Diego Housing Commission for the FY 2007 Social Services Program, contingent upon adoption of the FY 2007 Appropriation Ordinance and certification of funds availability by the City Auditor and Comptroller;

Approving the funding recommendations for the FY 2007 Social Services Program, set forth in Report to the City Council No. 06-048, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the Mayor, or his designee, to negotiate and execute agreements with those programs approved for funding, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to appropriate and expend the CDBG, Emergency Shelter Grant, and San Diego Housing Commission funds for those programs approved for funding, contingent upon certification of funds availability by the City Auditor and Comptroller.

STAFF SUPPORTING INFORMATION:

Since the 1960's, the City has been funding the Social Services Program (Program), mostly through federal pass-through grants. The City has utilized a mix of federal community development funds, City general funds, and other agency contributions to meet its social service objectives. The Program reached a high point of \$6.44 million and 105 programs in FY 2002. However, due to declining federal grants and the elimination of City general funds for the Program, the Program fell to \$3.30 million and 21 programs in FY 2006. That amount will be reduced in FY 2007 to \$3.03 million, a reduction of \$269,551 (8.2%), and a total of 20 programs. The major drop-off of funding since FY 2002 (-52.9%) has changed the City's approach to social services. The City's first priority is to fund the twelve City programs. Of these programs, only the Winter Shelter Program is recommended for an increase, due to the City's goal of providing a 120-day program.

Four (4) other homeless programs and three (3) Park and Recreation programs are recommended for no changes to their total operating budget. However, four (4) programs are recommended for a 10.3% reduction. This percentage equals the overall reduction of the CDBG grant for FY 2007. The YMCA PRYDE After-School Day Camp Program is not recommended for funding in FY 2007, since there are "6 to 6" Before and After School Programs in all elementary and middle schools located in San Diego's low and moderate income communities. The second category of priorities is referred to as Basic Services. The City has a long term funding relationship with the programs listed under this category. Six (6) of the eight (8) Basic Services Programs are recommended for a 10.3% reduction. The two remaining programs conducted by the County are recommended for a 42.1% reduction.

FISCAL CONSIDERATIONS:

There is no impact to the General Fund from this action. Funding for each program is available either from the City's CDBG entitlement grant, ESG, or the SDHC.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The application for federal entitlement grants (which includes the City's CDBG entitlement grant) is referred to as the Consolidated Plan. The Consolidated Planning process includes a community input process where staff presented the Plan and requested feedback from each community planning group that represents low and moderate income communities. The City did not issue a "Notice of Funding Availability" for FY 2007 Social Services Program funding. Due

to City fiscal constraints, only "City Programs" and programs that have been previously qualified under the "Basic Services" category will be eligible for funding. The proposed funding recommendations will be posted on the City's Social Services Program website and will be noticed in the San Diego Union Tribune newspaper to provide a public review period from April 25, 2006 through May 8, 2006.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Residents of low and moderate income communities; community based organizations; community planning groups; and other community development organizations.

Linares/Martinez

Staff: Ernie Linares - (619) 236-6719
Michael D. Neumeyer - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:43 p.m. – 3:04 p.m.;
3:55 p.m. – 3:57 p.m.;
5:23 p.m. – 5:34 p.m.)

MOTION BY FRYE TO ADOPT. Second by Atkins. Passed by the following vote:
Peters-not present, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-not present,
Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-206: Mesa Commons II, Project No. 82698.

Matter of approving, conditionally approving, modifying or denying an application for an amendment to the City of San Diego Progress Guide and General Plan and College Area Community Plan to redesignate the land use of a 1.96-acre site from Low Density Residential 1 to 10 dwelling units per acre to Low-Medium Density Residential 10 to 15 dwelling units per acre; a Rezone of the 1.96-acre site from RS-1-7 to RM-1-2; a Planned Development Permit (PDP) for sustainable development which deviates from the regulations of the underlying zone and to amend the existing PDP to add units and modify the site and parking plan; a Site Development Permit (SDP) for a multi-unit development that exceeds 4 dwelling units on lots which are consolidated or otherwise joined together for

the purpose of accommodating the development and to amend the existing SDP; and a Vesting Tentative Map for condominium purposes for the 1.96-acre Mesa Commons II site, located at 4883, 4905, and 4915 Catoctin Drive. The SDP and PDP amend the previously approved Mesa Commons I project site, located at 6456 El Cajon Boulevard.

(See Report to City Council No. 06-083. College Community Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the resolutions in Subitems A and B; introduce the ordinance in Subitem C and adopt the resolution in Subitem D to grant the permits; and adopt the resolution in Subitem E to grant the map:

Subitem-A: (R-2006-835) ADOPTED AS RESOLUTION R-301426

Adoption of a Resolution certifying that Addendum to Negative Declaration No. 33812 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Administrative Code Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the Council, in connection with the approval of community plan amendment/general plan amendment, rezone, vesting tentative map, and site development permit/planned development permit for the Mesa Common II project;

That the Council finds that there is no substantial evidence in light of the whole record that substantial changes are proposed in the project that would require major revisions to the Negative Declaration due to new significant environmental effects, and that said Addendum to Negative Declaration is approved;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2006-836) ADOPTED AS RESOLUTION R-301427

Adoption of a Resolution granting the amendments to the College Area Community Plan, a copy of which is on file in the Office of the City Clerk as Document No. RR-273373.

Subitem-C: (O-2006-112) INTRODUCED TO BE ADOPTED ON, TUESDAY,
MAY 23, 2006

Introduction of an Ordinance changing a 1.96-acres site, located at 4883, 4905, and 4915 Catocin Drive, in the College Area Community Plan Area, in the City of San Diego, California, from the RS-1-7 Zone into the RM-1-2 Zones, as defined by San Diego Municipal Code Section 131.0406; and repealing Ordinance No. 13558 (new series), adopted July 5, 1932, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

Subitem-D: (R-2006-837) GRANTED PERMITS, ADOPTED AS RESOLUTION
R-301428

Adoption of a Resolution adopting the findings with respect to PDP No. 261644/SDP NO. 312203;

That Planned Development Permit No. 261644/Site Development Permit No. 312203 is granted to Carter Reese No. 15A, L.P., A California Limited Partnership, and Catocin Properties, LLC, Owners, and Carter Reese No. 15A, L.P., A California Limited Partnership Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

Subitem-E: (R-2006-838) GRANTED MAP, ADOPTED AS AMENDED AS
RESOLUTION R-301429

Adoption of a Resolution adopting the findings with respect to Vesting Tentative Map No. 294170;

That Vesting Tentative Map No. 294170, is granted to Carter Reese No. 15A L.P., a California Limited Partnership, Applicant/Subdivider, and Poutney Psomas Civil Engineering, Engineer subject to the attached conditions which are made a part of this resolution by reference.

OTHER RECOMMENDATIONS:

Planning Commission on March 30, 2006 voted 4-1 to approve; was opposition.

Ayes: Steele, Ontai, Otsuji, Schultz

Nays: Chase

Not present: Garcia, Griswold

The College Area Community Council has recommended approval, with denial of the requested parking deviations.

STAFF SUPPORTING INFORMATION:

The project site is located at 4883, 4905, and 4915 Catoctin Drive and 6456 El Cajon Boulevard within the College Area Community Planning area (Attachment 2). The 4.08-acre site has street frontages on both El Cajon Boulevard and Catoctin Drive, northeast of Art Street. The Mesa Commons II projects. (1.96-acres) is an amendment to the Mesa Commons I site (2.12-acres and 52 dwelling units) which was approved by the City Council on March 1, 2005. The amendment proposes to add the 1.96-acre Mesa Commons II site (for a total of 4.08-acres) and 33 dwelling units (for a total of 85 dwelling units) to the previously approved Mesa Commons I site.

The proposed Mesa Commons II project would include the demolition of an existing single-family home and construction of 33 for-sale residential dwelling units. The development would meet the City of San Diego Inclusionary Housing Ordinance by paying the required in-lieu fee.

The 33 units would consist of twenty-six (26) attached rowhome style units in seven buildings with four, three-unit buildings, one, four-unit building, and two, five-unit buildings totaling 53,310 square-feet (including garages); and seven (7) detached single-family home style units totaling 14,618 square-feet (including garages).

The project would also include a roof-mounted photovoltaic system consisting of solar panels; fire-sprinklered buildings; 20, 100 square-feet of on-grade open space with picnic tables; 3,226 square-feet of open space on 2nd floor balconies; two, four-foot wide pedestrian walkways connecting the Mesa Commons development to the adjacent Montesuma Park; and the addition of landscape screening materials buffering the development from the adjacent park.

The project proposes to deviate from the San Diego Municipal Code (SDMC) requirements for parking, height, setbacks, and the length of the required building façade. Staff believes that the City Council can make the appropriate findings based on the discussion in Attachment 25 to the Planning Commission Report (Parking) and in the Project Related Issues Section of the Planning Commission Report, pages 6-8.

FISCAL CONSIDERATIONS:

A deposit has been collected from the applicant to cover all costs associated with processing the proposed project.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Mesa Commons I came before the City Council on March 1, 2005 and was approved unanimously by a vote of 9-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On March 30, 2006, the Planning Commission voted 4-1 to recommend that the City Council approve the staff recommendation, with a recommendation that the applicant pursue a more aggressive approach to sustainability, e.g., more conservation in building elements, drought tolerant landscaping, permeable hardscape, etc.

On February 8, 2006, the College Area Community Council (CACC) voted 8-3-4 to approve the project with denial of the requested parking deviations. Please see the February 8, 2006 CACC meeting minutes and the detailed discussion of the requested parking deviations, Attachments 24 and 25 to the Planning Commission Report.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Owners: Catoctin Properties, L.L.C. & Carter Reese No. 15A, L.P.

Applicant: Carter Reese & Associates.

Halbert/Waring/DS

LEGAL DESCRIPTION:

The proposed project is located at 4883, 4905, and 4915 Catoctin Drive, within the Campus Impact Area of the Parking Impact Overlay Zone, the College Area Community Plan and Council District 7. and is more particularly described as Parcel 1, Lot 8; Parcel 2, Lot 9; Parcel 3, and portions of Lot 10 of Alvarado Heights, Map No. 1634.

Staff: Dan Stricker – (619) 446-5251
Shannon M. Thomas – Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: SUBITEMS A, B, D, & E: MEET
SUBITEM C: NONE

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:38 p.m.)

Testimony in opposition by Mary Gimeno and Steve Laub.

Testimony in favor by Tom Carter and Reese Jarrett.

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN SUBITEMS A AND B; INTRODUCE THE ORDINANCE IN SUBITEM C; ADOPT THE RESOLUTION IN SUBITEM D TO GRANT THE PERMITS; AND ADOPT THE RESOLUTION IN SUBITEM E TO GRANT THE MAP AS AMENDED TO INCLUDE LANGUAGE DISCLOSING THAT THE DRIVEWAYS ARE TOO SHORT FOR CARS TO PARK AND THAT THIS CONDITION BE ATTACHED TO THE LIFE OF THE HOME. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-recused, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-250: Notice of Pending Final Map Approval - 5722 Riley Street Condominiums.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "5722 Riley Street Condominiums" (T.M. No. 170171/PTS No. 58027), located on the north side of Riley Street between Colusa Street and Eureka Street in the Linda Vista Community Plan Area in Council District 6, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-251: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the November 7, 2006 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	6/16/2006	144	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	6/21/2006	139	Rules Committee review of ballot proposals

Monday	6/26/2006	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee
Monday	7/10/2006	120	Council adopts propositions for ballot; directs City Attorney to prepare ordinances
Monday	7/31/2006	99	Council adopts ordinances prepared by City Attorney
Friday	8/11/2006	88	Last day for City Clerk to file with Registrar of Voters all elections material
Thursday	8/24/2006	75	Last day to file ballot arguments with City Clerk

If you have questions, please contact the Office of the City Clerk at (619) 533-4050.



[ITEM-S400:](#) Impasse Procedure.

MAYOR SANDERS' RECOMMENDATION:

DISCUSSED

Providing an impasse procedure, if necessary, for Management and International Association of Firefighters Local 145 and the Deputy City Attorney Association currently involved in contract negotiations.

SUPPORTING INFORMATION:

The current MOU and Council Policy 300-6 provide that Labor Organizations have a right to Council hearing on any issues at impasse at the conclusion of negotiations.

The purpose of the impasse meeting shall be to identify and specify in writing the issue or issues that remain in dispute according to Council Policy 300-6.

Michell/Froman

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:30 p.m. – 3:40 p.m.)



ITEM-S401: Authorizing Expenditure of Funds Needed to Comply with Court Order in SR-56 Lawsuit.

(State Route 56 Corridor, Torrey Highlands Community Area. District 1.)

(Continued from the meeting of May 1, 2006, Item S401, at the request of Councilmember Madaffer, for further review.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-918 Cor. Copy) ADOPTED AS RESOLUTION R-301430

Amending the Fiscal Year 2006 Capital Improvement Program Budget for CIP-52-463.0 by increasing the budget amount by \$10,410,800;

Authorizing the appropriation of an amount not to exceed \$10,410,800 from General Fund Unappropriated Reserves, Fund 100, solely and exclusively, for the purpose of providing funds for the right-of-way acquisitions costs for CIP-52-463.0;

Authorizing the issuance of a check in the amount of \$10,410,800, from CIP-52-463.0, Fund 100, made payable to the State Treasury Condemnation Fund, to satisfy a court ordered payment in the State Route 56 eminent domain case, City of San Diego v. D.R. Horton, et al., San Diego Superior Court Case No. GIC777603-1, contingent upon the City Auditor and Comptroller certifying that the funds are available;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

STAFF SUPPORTING INFORMATION:

In November 2001, the City filed a Complaint in Eminent Domain against D.R. Horton to acquire 12.31 acres of a 39.38 acre parcel for the construction of State Route 56. The only issue relates to the "just compensation" to which D.R. Horton is entitled (the property owner's appraiser has valued the property at \$16,000,000 and the City's appraiser has valued the property at \$4,925,000). D.R. Horton does not challenge the City's authority to acquire the property by eminent domain.

The case came for trial in August 2003, and the jury verdict was \$5,589,200, which was paid. The trial judge granted the property owner's motion for a new trial, which was upheld on appeal. The matter has been set for a retrial on November 17, 2006. In preparation for the retrial, the property owner made a motion in court to increase the deposit of probable compensation to \$16,000,000, which was granted. Therefore, the City must deposit an additional \$10,410,800 (\$16,000,000 minus the \$5,589,200 that was already paid) with the State Treasury Condemnation Fund by May 5, 2006.

FISCAL CONSIDERATIONS:

There is not enough money remaining in the State Route 56 Project funds (CIP-52-463.0) to make the additional \$10,410,800 deposit. The General Fund Unappropriated Reserves has been identified to make the court-ordered deposit. Staff is exploring alternate funding sources to repay this amount to the General Fund Unappropriated Reserves.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Council was briefed on the status of the litigation in Closed Session on April 4, 2006.

Goldstone/Haas

Aud. Cert. 2600767.

Staff: Leslie A. FitzGerald – (619) 533-5804

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:51 p.m. – 3:55 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



[ITEM-S402:](#) Vote to Validate Six Prior Resolutions to Authorize Kroll Funding.

(See Report from the City Attorney dated May 2, 2006.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-939) ADOPTED AS RESOLUTION R-301431

Validating Resolutions R-300139, R-300423, R-300629, R-300630, R300780,
and R-301170 by the Council.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:31 p.m. – 4:45 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following
vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-
yea, Madaffer-yea, Hueso-yea.



[ITEM-S403:](#) Authorization of Funding for Audit Committee and Related Entities.

MAYOR SANDERS' RECOMMENDATION:

(R-2006-) ADOPTED AS RESOLUTION R-301438

Authorizing increased funding totaling \$5,625,948 for the Audit Committee, NTI
Breakwater, KPMG, and Macias & Gini;

Authorizing the reallocation of \$11,427,312.80 in previously approved
expenditures charged to the Public Liability Fund across all funds using an
allocation based on pensionable salaries;

Authorizing the transfer of \$733,367.47 from the General Fund Unappropriated
Reserves, Fund 100, to the Public Liability Fund-81140 for the net General Fund
portion of these expenditures;

Delegating authority to the Mayor to administer the contract with Kroll and Willkie Farr & Gallagher;

Including, as a condition of this additional funding, that the Audit Committee shall produce all work product and investigation related materials at the conclusion of their engagement or upon request from the City of San Diego;

Directing the City Attorney to prepare the appropriate resolutions/ordinances associated with these actions.

SUPPORTING INFORMATION:

On March 8, 2005, the City Council established an Audit Committee of the City of San Diego, as contemplated by the Sarbanes-Oxley Act of 2002, to complete an investigation of matters involving the San Diego City Employees' Retirement System and to issue a report that would serve as the basis for KPMG to issue its audit of the City's 2003 Financial Statement. The KPMG audit is necessary for the City to return to the bond markets and regain its financial ratings. Willkie Farr & Gallagher LLP was engaged to serve as legal counsel.

The Audit Committee's work has progressed and the Council has, on occasion, authorized increased funding for the investigative, legal and audit related work. On January 17, 2006, the Audit Committee last appeared before the City Council to provide a status report and to request additional funding to continue/complete its investigation. Kroll estimated that the Audit Committee's total additional funding would be between \$7-\$10 million. At that meeting, the Council authorized up to \$10 million. According to Kroll, as of that time, they had also incurred \$3.3 million in billed and unbilled expenses for which they had not been reimbursed and which were not included in the above estimate (see attached April 6, 2006, letter from Audit Committee).

The Audit Committee requests an additional \$3.3 million for professional expenses and up to \$800,000 in out of pocket expenses to complete the investigation and issue a report sometime in June. This final request would bring the Audit Committee to their January estimate of \$10 million to complete their work, and would bring the total cost of the Audit Committee investigation to \$20.3 million.

While this process has been more costly and more time consuming than originally contemplated, the Mayor recommends the additional funding be approved to bring this process to completion and bring the City one step closer to releasing its 2003 audit by KPMG. To facilitate the completion of the investigation and preparation of the final report, the Mayor requests that Council delegate the authority to the Mayor to administer the contract with Kroll and Wilkie Farr.

In addition, as a condition to this additional funding the resolution shall reflect that the Audit Committee agrees, at the conclusion of their engagement or upon request from the City of San Diego, to produce all work product and materials related to the investigation from January 2005 to the date of the written request. All appropriate privileges and confidential information will be maintained by the City as provided by law.

In addition to the funding requests sought by the Audit Committee, the following entities are requesting additional funding for related services:

1. \$75,948 for NTI Breakwater for the completion of electronic data compilation, bringing the total to \$330,000
2. \$1,300,000 for KPMG for monitoring of the Audit Committee and for auditing of the City's 2003 financial statement, bringing the total to \$4,400,000
3. \$150,000 for Macias & Gini for auditing of the City's 2004 and 2005 financial statements, bringing the total to \$1,710,456

The Audit Committee also demanded document production by SDCERS. As a negotiated resolution of costs associated with that production, including privacy rights protection, and to move this production along as quickly as possible, the City paid \$50,000 to SDCERS on April 28, 2006.

FISCAL CONSIDERATIONS:

Based on City Council Policy, the CFO's recommendation, and generally accepted accounting principles, the Mayor recommends allocation of this \$5,625,948 in new costs across all funds based on pensionable salaries (see attached spreadsheet). Consistent therewith, \$11,427,312.80 in previously authorized expenditures (\$10 million for Audit Committee, \$1,377,312.80 in outside Attorney's fees, and the \$50,000 payment to SDCERS noted above) which were allocated solely to the General Fund's Public Liability Fund, on an interim basis, will be reallocated across all funds based on pensionable salaries (see attached). The allocation/reallocation of this total of \$17,053,260.80 will result in \$12,160,680.27, to the Public Liability Fund and \$4,892,580.53, to other City funds. It is necessary to transfer \$733,367.47, from the General Fund Unappropriated Reserves to the Public Liability fund to meet the General Fund portion of these costs.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The City Council has authorized investigation related actions and associated funding on several occasions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Kroll, Willkie Farr & Gallagher, NTI Breakwater, KPMG, Macias & Gini

Aud. Certs. 2600793, 2600794, 2600795, 2600796.

Dubick/Froman

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:45 p.m. – 5:23 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Pro Tem Young at 5:35 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:35 p.m.)